D.B. Civil Contempt Petition (W) No.135/2006
(Naurang Ram and Ors. Vs. B.R. Meena and Ors.)

24.5.2006

HON'BLE MR RAJESH BALIA, J.
HON'BLE MR R.P. VYAS,J.

Mr.N.R. Choudhary, for the petitioner/s

Heard learned counsel for the petitioners.

This Court has directed in D.B.Civil Special Appeal No. 363/2003 while allowing the appeal on 9.3.2004 that the petitioners are entitled to be declared as Semi-Permanent with effect from the date they completed two years of continuous service on work charged establishment and the consequences of acquisition of Semi-Permanent under the Rules shall follow.

Since the aforesaid directions were not given effect to, the petitioners preferred D.B. Civil Contempt Petition No. 160/2004.

During the pendency of the aforesaid contempt petition after issuance of notice, the respondents issued order dated 15.1.2005 refixing the date with effect from which each of the petitioner was conferred with Semi-Permanent status and directing that until 31.3.2004 i.e. date of the previous order they shall be entitled to notional benefit of remunerations only,

which was stated to be as per their consent given in the application filed earlier.

Be that as it may, while aforesaid order was brought to the notice of the Court, by order dated 2.6.2005 notices of the aforesaid contempt petition were discharged without prejudice to the rights and contentions of the petitioners with respect to the effective compliance of the order.

Apparently, the Court has left the petitioners free to pursue their remedy other than contempt petition if they were not satisfied with the order dated 15.1.2005.

In the aforesaid circumstances, this second application for initiating contempt proceeding against the respondents once again for giving effect to the order dated 9.3.2004 by contending that order dated 15.1.2005 is not compliance of the order, in our opinion, is ill-advised and cannot be entertained.

Learned counsel for the petitioners contented that in the order dated 2.6.2005, the petitioners were left free to agitate about the effective compliance of the order. Since effective compliance of the order dated 9.3.2004 has not been made, the petitioners were justified in filing this application.

This submission is not sustainable, inasmuch as

when inspite of the order Annexure-CP/2, the Court has not thought it fit to continue with the contempt proceedings and examined the merits of the said order in the contempt proceedings, there is no reason for the petitioners to resort to contempt jurisdiction once again for the purpose of examining the merit of order dated 15.1.2005.

In view thereof this contempt petition is rejected. However, this will not affect the petitioners right to have resort to any other remedy in respect of the order dated 15.1.2005 on its own merits.

(R.P.VYAS), J. (RAJESH BALIA),J.

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